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**UNITED STATES DISTRICT COURT**

**EASTERN DISTRICT OF TEXAS**

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MID-CONTINENT CASUALTY CO.,

Plaintiff,

*versus*

CLARENCE NEWAL YARBROUGH and  
YARBROUGH'S DIRT PIT INC.,

Defendant.

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CIVIL ACTION NO. 1:04-CV-727

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

The court referred this matter to the Honorable Earl S. Hines, United States Magistrate Judge, for pretrial proceedings under Beaumont General Order 04-06. The court has received and considered the report of the United States magistrate judge, who recommends that the court enter final judgment dismissing this action by reason of settlement.

Defendants have not objected to the magistrate judge's proposed findings, conclusions of law or recommendation of disposition. However, plaintiff filed an objection to the report. Plaintiff asserts that the parties have been working diligently to complete settlement and this court should retain this case. Plaintiff reasserts that it will move for dismissal of this suit with prejudice when settlement is complete.

Upon conducting a *de novo* review of the magistrate judge's report and plaintiff's objection, the court concludes that it already has allowed adequate time for implementing the settlement. A dismissal without prejudice pursuant to settlement does not harm plaintiff. The court will retain jurisdiction to vacate the judgment and reopen the action upon cause shown.

The court has considered the magistrate judge's report and conducted a *de novo* review of plaintiff's objection. The court concludes that the findings of fact and conclusions of law of the magistrate judge are correct. Plaintiff's objection is **OVERRULED**. Accordingly, the report of the magistrate judge is **ADOPTED**. The purpose of the referral having been served, it is further **ORDERED** that the reference to the magistrate judge is **VACATED**.

SIGNED at Beaumont, Texas, this 24th day of April, 2006.

A handwritten signature in cursive script, reading "Marcia A. Crone".

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MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE